

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF THE
REQUEST FOR REVIEW BY:

RYAN MARTINEZ

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CHARGE NO: 2005CF3035
HUD NO: 21BA517802

ORDER

This matter coming before the Chief Legal Counsel Designee upon Complainant's Request for Review ("Request") of the Notice of Dismissal ("Notice") issued by the Department of Human Rights ("Department") for Complainant's Failure to Proceed, Charge No. 2005CF3035, Ryan Martinez, Complainant, and Rochelle Foods – Hormel Foods Corporation, Respondent; and the Chief Legal Counsel Designee having reviewed de novo the Department's investigation file, including the Notice, and Complainant's Request and supporting materials; and the Chief Legal Counsel Designee being fully advised of the premises;

NOW, THEREFORE, it is hereby ORDERED that the Department's Dismissal of Complainant's charge is SUSTAINED on the following ground:

FAILURE TO PROCEED

1. On September 11, 2004, Complainant filed an unperfected charge of discrimination with the Department, alleging violations of Section 2-102(A) of the Illinois Human Rights Act ("Act"). The Complainant Information Sheet ("CIS") alleges "race" and "Mexican-American" as the protected basis. Further, the CIS alleged that Complainant attempted to resolve the allegations in his charge with "UFCW Local 1546" ("UFCWL"), but the "union has taken inadequate steps to remedy [sic] matter."
2. On December 2, 2004, the Department mailed Complainant a draft charge alleging national origin and ancestry discrimination.
3. On December 13, 2004, the Department received a letter from Complainant alleging that the Department's draft charge did not accurately state his allegations of "race" discrimination against his former employer.

4. On April 1, 2005, and on October 5, 2005, the Department mailed Complainant a draft charge alleging national origin and ancestry discrimination.
5. In May, 2005, the Department received a copy of a letter from Complainant alleging race discrimination and that Respondent and UFCW should be named in Complainant's charge.
6. On December 6, 2005, the Department dismissed Complainant's charge for Failure to Proceed. Complainant filed a timely Request for Review of the dismissal of his charge.
7. On June 12, 2006, the Chief Legal Counsel vacated the dismissal of Complainant's charge and remanded the charge to the Department to: 1) explain to Complainant that pursuant to Section 7A-102(A) of the Act, the Department has jurisdiction only as to allegations filed within 180 days of the alleged violations; 2) explain to Complainant pursuant to the Act and the Department's Rules and Regulations, only a perfected charge may be investigated; 3) explain to Complainant that Mexican-American is not a race and the differences between national origin, ancestry and race discrimination; and 4) determine whether Complainant provided sufficient details in his CIS as to substantially apprise the Department of an intent to file the charge against UFCW. 775 ILCS 5/7A-102(A); Muraoka v. Human Rights Commission, 252 Ill.App.3d 1039, 1047-48, 625 N.E.2d 251, 257 (1st. Dist. 1993).
8. On November 8, 2006, the Department notified Complainant that it had drafted his charge to allege ancestry discrimination because he had not identified his race and that Mexican-American and Hispanic are not races. Further, the Department notified Complainant that he had not made any allegations of unlawful discrimination against UFCW Local 1546. The Department notified Complainant that he must sign and notarize an enclosed charge by November 20, 2006. Complainant did not sign, notarize, or return the charge.
9. On August 30, 2013, Department staff requested Complainant to contact staff within thirty days or the Department would dismiss his charge and the underlying charge with the Equal Employment Opportunity Commission.
10. On October 2, 2013, Complainant notified Department staff that he did intend to sign the charge that the Department submitted to him for his signature.
11. On November 5, 2013, the Department issued a Notice of Dismissal ("Notice"), pursuant to Section 2520.560 of the Department's Rules and Regulations. 56 Ill. Admin. Code, Ch. II, Section 2520.560. The Notice informed Complainant that he could request a review of the dismissal by filing a "Request for Review" with the Department's Chief Legal Counsel within thirty days of receipt of the Notice.
12. On December 9, 2013, Complainant filed this timely Request for Review ("Request").
13. In his Request, Complainant does not present any additional evidence which would warrant a reversal of the Department's original determination. Complainant alleges that the Department's investigation was unprofessional. However, the evidence shows that the

Department's investigation was conducted following the established procedures of the Department. Complainant's Request is not persuasive.

14. Complainant did not provide good cause for his failure to cooperate with Department staff.

15. This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming 1) the Chief Legal Counsel Designee, 2) the Department, and 3) Respondents as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this Order. The Department deems "service" complete 5 days after mailing.

ENTERED THIS _____ DAY OF _____, 2014.

Amalia Martinez
Supervising Attorney
Chief Legal Counsel Designee